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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS-2012-0078]

RIN 0579-AD72

Importation of Female Squash Flowers From Israel into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations governing the importation of fruits and vegetables to allow the importation of female squash flowers from Israel into the continental United States. As a condition of entry, female squash flowers from Israel will be subject to a systems approach that includes requirements for pest exclusion at the production site and fruit fly trapping and monitoring. The female squash flowers must also be accompanied by a phytosanitary certificate issued by the national plant protection organization of Israel with an additional declaration that the female squash flowers have been inspected and found free of quarantine pests. This action will allow for the importation of female squash flowers from Israel into the continental United States while continuing to provide protection against the introduction of quarantine pests.

DATES: Effective [Insert date 30 days after date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Mr. George Balady, Senior Regulatory Policy Specialist, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1236; (301) 851-2240.

SUPPLEMENTARY INFORMATION:

Background

The regulations in “Subpart–Fruits and Vegetables” (7 CFR 319.56-1 through 319.56-67, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

On May 2, 2013, we published in the Federal Register (78 FR 25620-25623, Docket No. APHIS-2012-0078) a proposal¹ to amend the regulations by allowing the importation of female squash flowers from Israel into the continental United States under a systems approach that would include requirements for pest exclusion at the production site and fruit fly trapping and monitoring. The female squash flowers would also have to be accompanied by a phytosanitary certificate issued by the national plant protection organization (NPPO) of Israel with an additional declaration that the female squash flowers have been inspected and found free of quarantine pests.

We solicited comments concerning our proposal for 60 days ending July 1, 2013. We received two comments from members of the public by that date.

One commenter supported the proposed rule. One commenter opposed the proposed rule, citing no finding of a public benefit for importing female squash flowers, a potential slight

¹ To view the proposed rule, the pest risk analysis, and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0078>.

decrease in the price of the commodity, and an additional cost to the U.S. Government for enforcing compliance with the regulation.

Under the Plant Protection Act (7 U.S.C. 7701 et seq.), the Animal and Plant Health Inspection Service (APHIS) has the authority to prohibit or restrict the importation of plants and plant products only when necessary to prevent the introduction into or dissemination of plant pests or noxious weeds within the United States. APHIS does not have the authority to restrict imports solely on the grounds of potential economic effects on domestic entities that could result from increased imports.

The commenter expressed concern about the potential introduction of new pests resulting in reduced crop yields, fruit-fly-borne diseases, and increased economic and health costs associated with pesticide use. The commenter also mentioned the lack of provisions to compensate domestic farmers for the harm caused by the failure of importers of female squash flowers to comply with the proposed mitigation measures.

APHIS has determined that the measures outlined in the risk management document that accompanied the proposed rule are sufficient to mitigate the risk of pests being introduced into the United States as a result of the importation of female squash flowers from Israel. The commenter did not provide any evidence that the measures would not be effective. The NPPO of Israel and APHIS will collaborate to ensure that growers and importers comply with the proposed measures, as we do in other import programs.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 604, we have performed a final regulatory flexibility analysis, which is summarized below, regarding the economic effects of this rule on small entities. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under FOR FURTHER INFORMATION CONTACT.

This final rule will amend the regulations to allow, under certain conditions, the importation of female squash flowers (Cucurbita pepo L.) from Israel into the continental United States. Squash flowers have gained in popularity as an elegant way to garnish dishes, desserts, and salads, and as an ingredient in other dishes. Marketing of commercially grown edible flowers is typically directed to clientele at upscale restaurants.

Farms that solely produce squash flowers are rare. The blossoms are typically a by-product of squash fruit production. Squash is commercially produced throughout the United States, but principally in Michigan, California, Florida, and Georgia.

The Small Business Administration's small-entity standard for U.S farms that produce squash is annual receipts of not more than \$750,000. In 2007, the average market value of sales by the 11,821 U.S farms that produced squash was about \$17,222, well below the small-entity standard. We infer that by far most farms producing squash, including farms producing squash flowers, are small entities.

Israel is expecting to export 10 metric tons of fresh female squash flowers annually to the United States. We do not know the quantity or value of female squash flower production in the

United States, or the quantity or value of female squash flowers imported from other countries. Without basic production and trade information, we are unable to evaluate potential impacts of this final rule.

Executive Order 12988

This final rule allows fresh female squash flowers to be imported into the United States from Israel. State and local laws and regulations regarding female squash flowers imported under this rule will be preempted while the fruit is in foreign commerce. Fresh vegetables are generally imported for immediate distribution and sale to the consuming public, and remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. No retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection or recordkeeping requirements included in this final rule, which were filed under 0579-0406, have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, if approval is denied, we will publish a document in the Federal Register providing notice of what action we plan to take.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and

for other purposes. For information pertinent to E-Government Act compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. Section 319.56–68 is added to read as follows:

§ 319.56-68 Female squash flowers from Israel.

Female squash flowers (Cucurbita pepo L.) may be imported into the continental United States from Israel only in accordance with this section and other applicable provisions of this subpart. These conditions are designed to prevent the introduction of the following quarantine pests: Ceratitis capitata, Dacus ciliatus, Helicoverpa armigera, and Scirtothrips dorsalis.

(a) Production site requirements. (1) Production sites in which the female squash flowers are produced must be registered with the national plant protection organization (NPPO) of Israel. Initial approval of production sites must be completed jointly by the NPPO of Israel and APHIS.

(2) The NPPO of Israel must visit and inspect the production sites. APHIS may monitor the production sites if necessary.

(3) Production sites must be inside pest-exclusionary structures (PES). The PES must have self-closing double doors. All openings, including vents, to the outside of the PES must be covered by screening with mesh openings of not more than 1.6 mm.

(b) Mitigation measures for fruit flies (*C. capitata* and *D. ciliatus*). (1) The NPPO of Israel must set and maintain fruit fly traps with an APHIS-approved bait at a rate of one trap per hectare, with a minimum of one trap in each PES and one outside the entrance of each PES. The NPPO of Israel must check the traps every 7 days and maintain records of trap placement, trap maintenance, and captures of any fruit flies of concern. The NPPO must maintain trapping records and make the records available to APHIS upon request.

(2) Capture of a single fruit fly of concern inside a production site will immediately result in cancellation of exports to the United States from that production site. The detection of a fruit fly of concern in a consignment at the port of entry that is traced back to a production site will also result in immediate cancellation of exports to the United States from that production site. In both cases, exports from the production site in question may not resume until APHIS and the NPPO of Israel have mutually determined that the risk has been properly mitigated.

(c) Packinghouse requirements. While in use for exporting female squash flowers to the United States, the packinghouses may only accept flowers from registered production sites.

(d) Post-harvest procedures. Before being removed from the PES, harvested female squash flowers must be placed in field cartons or containers that are marked to show the official registration number of the production site. The place of production where the flowers were grown must remain identifiable from the time when the blossoms leave the production site, to the packinghouse, and through the export process.

(e) Commercial consignments. The female squash flowers may be imported in commercial consignments only.

(f) Phytosanitary certificate. Each consignment must be accompanied by a phytosanitary certificate issued by the NPPO of Israel with an additional declaration stating that the consignment has been inspected and found free of Ceratitis capitata, Dacus ciliatus, Helicoverpa armigera, and Scirtothrips dorsalis.

(Approved by the Office of Management and Budget under control number 0579-0406)

Done in Washington, DC, this 29th day of May 2014.

Kevin Shea

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014-13007 Filed 06/04/2014 at 8:45 am; Publication Date: 06/05/2014]